

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8644 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MAKARAND DESAI FAMILY TRUST

Versus

DY.COLLECTOR

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Appearance:

MR AMAR N BHATT for Petitioners

MR KT DAVE, AGP with MR PS PATEL for HM BHAGAT

& Company for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 09/10/98

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. P.S. Patel, Ld. Advocate for M/s. H.M. Bharat & Company. Ld. Solicitors for the Government.

2. Heard. This matter arises from the adjudication with regard to valuation of the property under document No. 13863/95 and consequent increase in the stamp duty payable by the petitioners as also the penalty by virtue

of sec. 32 A of the Bombay Stamp Act. It has been the petitioners' case that the petitioners were not given opportunity of meeting with the report submitted by the concerned authority based on which the decision in question has been rendered by the lower authority. The petitioners have also canvassed a decision of this Court rendered on 6/4/1998 (Coram : M.S. Shah, J.) in Special Civil Application No. 7955 of 1997, as also a decision of this Court rendered on 6/10/1998 in Special Civil Application No. 7500 of 1998. On going through the facts set out in the petition as also the decisions which have been canvassed, I am of the opinion that following order is required to be passed in terms of the orders passed by this Court referred to hereinabove :-

Hence, in the facts of the case, the impugned order dated 30/3/1995 confirmed by order dated 12/1/1998 in appeal is hereby set aside and the matter is remanded to the respondents with a direction to invite the petitioners' attention to the material on the basis on which the respondent no. 1 would propose to assess the value of the property in question and to give to the petitioners opportunity of meeting with the same. It is clarified that no opinion is expressed by this Court on merits of the matter.

It will be open to the petitioners to make a reference to the Government Resolution dated 29/7/1998 and when the said Resolution is canvassed, the same shall be considered and decision shall be taken in accordance with law.

Rule made absolute accordingly with no order as to cost. DSP.

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PVR.